IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

S.B.CIVIL WRIT PETITION NO.5145/2001.

Smt.Annpurna Devi Sharma.

VERSUS

The Board of Revenue & Another.

28.11.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.M.M.Ranjan, for the petitioner.
Mr.B.K.Sharma, Deputy Government Advocate.

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Vide Annexure-1, on the recommendation of the Advisory Committee, land was allotted to the petitioner.

Even as per the order (Annexure-1) the classification of the land was *talabi*. Under Rule 4 lands mentioned in Section 16 of the Rajasthan Tenancy Act have been excluded and are incapable of being allotted under clause (i) of Rule 4 of the Rajasthan Land Revenue (Allotment of Land for Agricultural Purposes) Rules, 1970 read with Section 16 clause (ii). Section 16 clause (ii) reads as under:-

> "**16.***Land in which Khatedari rights shall not accrue*- Notwithstanding anything in this Act or in any other law or enactment for the time being in force in any part of the State Khatedari rights shall not accrue in –
>
> (i) XXX XXX XXX
> (ii) land used for casual or occasional cultivation in the bed of a river or tank;"

Rule 4 (i) of the Rajasthan Land Revenue (Allotment of Land for Agricultural Purposes) Rules, 1970 reads as under:-

> "**Rule 4. Land not available for allotment under these rules.**- The following categories of lands shall not be available for allotment for agricultural purposes under these rules, namely-
>
> (i) Lands mentioned in the Section 16 of the Rajasthan Tenancy Act, 1955."

Thus, the land in dispute could not have been allotted to the petitioner on the recommendations of the Advisory Committee by virtue of Annexure-1. The Board of Revenue has, therefore, in my view, not committed any error of jurisdiction so as to warrant interference under the writ jurisdiction under Article 226 of the Constitution of India. The acceptance of the writ petition on any other ground would amount to reviving otherwise an illegal order.

Consequently, the writ petition as well as the stay application stand dismissed, as above.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.